



APPENDIX C

EMPLOYMENT STATUSES

This Appendix includes definitions of the various employment statuses and related compensation information for classified and non-classified employees, agency heads, hourly employees, “at will” employees, contractors and temporary workers from employment agencies.

CLASSIFIED EMPLOYEES

Classified employees are individuals covered by the Virginia Personnel Act (Chapter 10, Personnel Administration § 2.1-110. of the Code of Virginia) and include the majority of salaried individuals employed by the Commonwealth’s Executive Branch. The Commonwealth’s compensation policies and other human resource policies apply to classified employees. Classified employees are also covered by the Commonwealth’s Grievance Procedure after completing a probationary period.

Restricted Classified Employees

Employees whose positions receive 10 percent or more of required funding from non-continuous or non-recurring funding sources, such as grants, donations, contracts, capital outlay projects, or higher education auxiliary enterprise revenues.

Full-time Classified

Employees scheduled to work a minimum of 40 hours per week for at least nine months per calendar year.

Part-time Classified

Employees scheduled to work a minimum of 20 hours per week, but less than 40 hours per week, for at least nine months per calendar year.

NON-CLASSIFIED EMPLOYEES

Non-classified employees are individuals not covered by the Virginia Personnel Act, as specified in § 2.1-116 of the Code of Virginia. Examples of non-classified employees include hourly (wage) employees, Judiciary and Legislative Branch employees, faculty employed in the Commonwealth's colleges and universities, employees of independent agencies, employees of the Virginia Correctional Enterprises and the University of Virginia Medical Center, and chief deputies and confidential assistants for policy and administration. Other examples of non-classified employees include employees of Virginia Commonwealth University Health Systems Authority.

Employing agencies may choose to apply the compensation policy and other human resource policies to non-classified employees, or they may develop separate policies for them. Only those non-classified employees specified in the Code of Virginia are eligible to use the Grievance Procedure.

Agency Heads

All executive agency heads (excluding presidents of colleges and universities) are assigned to one of five pay levels. These pay levels are similar to the classified salary structure only to the extent that each is assigned a salary range. The Appropriation Act (Budget Bill) prescribes these levels and the salary administration rules governing agency head salaries.

The Governor, upon recommendation of the appropriate Cabinet Secretary, is responsible for assigning agency heads to the various pay levels. The following factors may be considered in the pay level assignment: the size of the agency's budget; number and complexity of the agency's programs; and the degree of impact on the government or citizenry of the state.

▪ **Starting Salary**

The starting salary of a newly appointed agency head normally will not exceed the midpoint of the salary range for the level assigned. In cases where the appointee's last salary was near or above the midpoint, a starting

salary up to 10% above his or her most recent salary may be approved, so long as it does not exceed the range maximum for the level assigned.

- **Salary Progression**

Agency heads normally receive annual salary adjustments consistent with those authorized by the General Assembly for classified state employees. Annual performance bonuses of 0-5% may also be granted based on performance appraisals by their respective appointing authority. Also, the Governor may increase or decrease the annual salary for Agency Heads in accordance with an assessment of performance and service.

- **Processing Guidelines**

DHRM, in coordination with the Department of Planning and Budget, will process salary changes for executive branch agency heads, including college and university presidents that are authorized by the Appropriation Act. The Virginia Community College System processes adjustments for community college presidents.

For other salary changes, agencies, colleges and universities are responsible for submitting a Form P-3 to the Department of Human Resource Management (DHRM) to effect any salary or supplement change for an agency head or college or university president. The P-3 must be signed by the appointing authority or a designated representative.

When an agency head is appointed or when an agency head's salary differs from the amount printed in the Appropriation Act, the agency or institution must submit a Form P-3 and a copy of the Governor's appointment letter or written authorization for the new salary. The Department of Human Resource Management will not effect any change in an agency head's salary that differs from the amount printed in the Appropriation Act without written authorization from the Governor.

- **Salary Supplements**

When a salary supplement (or special rate) is included in the salary of a college or university president, or another executive branch agency head, a memorandum from the Governor or appointing authority is required and should accompany the P-3.

Hourly Employees

Hourly employees (wage) are seasonal or temporary employees who are paid by the hour and limited to 1500 hours of work per agency in a consecutive 365-day period beginning on the anniversary of their hire date. They are paid only for hours actually worked.

- **Compensation Policies**

Compensation Policy 3.05 and the *Agency Salary Administration Plan* determine the compensation of hourly employees. Hourly employees typically work with classified employees and may be hired into classified positions after a period of hourly employment. Therefore, agencies need to consider how they want to use pay practices for hourly employees and include this topic in their *Agency Salary Administration Plan*. The *pay factors* should be used to determine rates paid to hourly employees.

- **Performance Increases**

Agencies should consider whether hourly employees will be eligible for performance increases. Statewide guidance may be provided in the Appropriation Act (Budget Bill) approved by the Governor and the General Assembly. If guidance is not provided in the Appropriation Act, agencies may develop a process for providing performance increases to hourly employees. Determinations about performance increases for hourly employees should be addressed in the *Agency Salary Administration Plan*. Agencies electing to grant performance increases to hourly employees should develop the appropriate mechanisms to evaluate hourly employees.

- **Workers' Compensation, Fair Labor Standards Act , and Unemployment Compensation**

All hourly employees are covered by the Workers' Compensation Act, and the minimum wage and overtime provisions of the FLSA, i.e., they are considered non-exempt. Hourly employees may be eligible for Unemployment Compensation when they are terminated, depending upon their individual circumstances.

- **Grievance**

Hourly employees are not authorized access to the Commonwealth's Grievance Procedure.

“At Will” Employees

The term “at-will” is used broadly to describe employees who are appointed by the Governor, such as employees in the Office of the Governor or employees in the Offices of Cabinet Secretaries.

However, this category also is often used to describe an “...employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. Employees serving in either one of these two positions serve on an employment-at-will basis. Agencies may not exceed two employees who serve in this exempt capacity.” These employees are typically appointed by the Governor. Salaries are set by the Governor's office and communicated by the Chief of Staff or designee.

The Office of the Chief of Staff or the Secretary of the Commonwealth typically establishes policies for at-will employees.

Contractors

Occasionally, state agencies require services that cannot be provided by either classified or hourly employees, or circumstances demonstrate that contractual services could be more efficient, cost effective, and in the best interest of the Commonwealth. In such cases, agencies have the authority to enter into contracts with individuals or firms to provide services. Such private contractors are not employees of the agency. They perform services under the provisions of the state's procurement policies. No taxes are withheld from payment, and no benefits are provided to the contractor.

Contractors act without direct agency supervision as to when and how the work is performed. They also provide their own equipment. If the contracting agency assumes the role of supervisor and supplier of resources, it may be considered the employer under provisions of the Fair Labor Standards Act and other laws and regulations. Agencies should address questions or

concerns about contract employees to DHRM, Department of General Services, or the Office of the Attorney General.

Temporary Workers from Employment Agencies

Employment agencies may be used to secure temporary workers in cases where hiring hourly employees is not practicable. The requirement to obtain workers through those employment agencies may arise when a large number of employees are required or when there is a limited amount of time for recruitment. These workers are not state employees. They are hired and compensated by the temporary employment agency that assigned them to state agencies. They are similar to contract employees.